

LICENSEE

Balancing effective public safety, excellent customer service and a reliable source of revenue.

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Licensee Survey Results Are Here

In order to measure performance and customer satisfaction with the licensee community, ABC conducts customer and stakeholder surveys on a biannual basis. This year, ABC teamed up with the Virginia Commonwealth University (VCU) Survey and Evaluation Research Laboratory to conduct telephone surveys. The recent survey, conducted May 17 through June 2, 2006, consisted of 800 respondents, selected randomly from a database of licensees provided by ABC.

The questions asked to licensees on behalf of ABC dealt with: the mission of the Department of ABC; ABC information, agents and inspections; awareness of and satisfaction with ABC services; importance of ABC services; the ABC quarterly newsletter; Web site usage; and evaluation of ABC stores.

This survey was similar to surveys conducted for ABC in 2002 and 2004, but it also contained several questions that were different from those on previous surveys. The final sample consisted of participants completing the survey over the phone, through the mail, and representing various ABC licensees

ABC Licensee Survey Results	Heard of Service	Used Service	Satisfied With Service
"Do Not Sell" Stickers/Decals	100%	89%	99%
Publications	99%	90%	97%
Toll free number	99%	6%	69%
Educational programs	98%	31%	96%

Ratings Among Mixed Beverage Licensees	Excellent or Very Good	Good	Fair or Poor
Convenience of ABC stores	66%	27%	5%
Access to pickup areas	63%	25%	9%
Variety of products	61%	29%	8%
Convenience of hours	61%	29%	9%

including on-premise, off-premise, on- and off-premise, and mixed beverage.

Here is an overview of the findings:

ABC's mission, information, agents and inspections:

- 49 percent of the licensees surveyed were either extremely satisfied or very satisfied with the customer service provided by ABC.

- 58 percent of the licensees said that the Department was extremely effective or very effective in promoting the responsible sale and consumption of alcoholic beverages. This result was significantly lower than in 2004, when 73 percent responded that the Department was extremely or very effective.

- 85 percent of the licensees said that

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Five New ABC Licenses May Be Granted by the ABC Board

By: Jeff Painter, Legislative & Regulatory Coordinator

After 46 days and over 3,000 legislative proposals, the Virginia General Assembly adjourned for another year on February 24, 2007.

While there was no shortage of ABC related legislation, it was the wine and winery issues, stemming from the 2005 federal ruling that found Virginia's self-distribution rights unconstitutional, which dominated the most hours of debate and compromise.

The major wine related news is **House Bill 2450** and **Senate Bill 1413** which create a new "Restricted Wholesale Wine License" that authorizes the licensee to provide wholesale wine distribution services to Virginia winery and farm winery licensees. The bill requires the Commissioner of the Department of Agriculture and Consumer Services to form a non-profit, non-stock corporation

that will hold this newly created license and distribute up to 3,000 cases of wine per year per winery. The bill also allows beer or wine wholesale licensees to deliver or ship beer or wine from one or more premises identified in the license.

Other successful ABC related proposals of interest included:

House Bill 1910 and **Senate Bill 1098** clarifies that the \$100 limitation on the purchase of alcoholic beverages by a manufacturer from a retail licensee used in a tasting is for the alcohol product only and does not include tax. The bills also clarify that up to a 20 percent gratuity may be left on the total expended, including tax.

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A Message From Enforcement



*Francis J. Monahan,
Director of ABC
Bureau of Law
Enforcement*

The start of a calendar year is always a time for people to implement changes and make resolutions. The same holds true for the ABC Bureau of Law Enforcement. The start of 2007 brought additions to the Bureau with the induction of a new class of special agents. On January 10, 2007, a diverse group of men and women, made history as the first class to sign the newly adopted code of ethics for the Enforcement division. Six of the new special agents are currently training at the Central Virginia Criminal Justice Academy in Lynchburg. Three members of the new class, each bringing over fifteen years of law enforcement experience, are exempt from attending the train-

ing as they are currently certified as police officers in the Commonwealth. Our special agents monitor the activities of the licensee community on a daily basis, keeping public safety as the number one priority. I am confident the new special agents will provide a wealth of guidance and wisdom to our licensee community and I welcome them to our law enforcement team.

"ABC depends on you, the licensee community, to help reduce youth access to alcohol."

Underage drinking efforts and compliance checks continue throughout the Commonwealth. A fatal car accident, in the Short Pump area of Richmond, involving an under the influence 16-year-old driver in the early morning hours of New Year's Day attracted extensive media coverage. The good news is that the majority of licensees are complying with the law and are actively taking steps to avoid sales to underage persons and I continue to encourage each of you to keep up the good work. The alcohol compliance

rate for Fiscal Year 2006 was 87 percent and the number continues to increase. ABC depends on you, the licensee community, to help reduce youth access to alcohol.

Licensees can partner with ABC in working towards 100 percent compliance. Assistance is available through ABC training sessions such as Responsible Sellers/Servers: Virginia's Program (RSVP) and Managers' Alcohol Responsibility Training (MART). Look for schedules of each program in various issues of the *Licensee*.

The Underage Buyer Program (UAB) is an effective measure of compliance in our licensee community. Whether the underage buyer is an operative or a teen attempting to purchase alcohol or tobacco, it is up to each of you to prevent the sale.

We are making progress through enforcement and through our education initiatives. It is through the support of the licensee community that we may continue that progress well into 2007 and beyond.

Licensee Survey continued from front page

information about laws and regulations was extremely or very important to them, while 74 percent said that guidance from agents about licensee responsibilities was extremely or very important.

83 percent of the licensees said that their ABC agent conducted an inspection in the last 12 months, up from 72 percent in the 2004 survey.

The ABC *Licensee* quarterly newsletter:

Licensees also rated the importance of various newsletter topics. These topics, and the corresponding percentage of licensees who deemed them extremely or very important, are as follows:

- A list of ABC violations and penalties: 52 percent
- Legislation updates and changes impacting licensees: 75 percent
- How to apply ABC regulations: 70 percent
- Alcohol education and abuse prevention information: 65 percent
- Information on training for responsible selling and serving: 69 percent
- Features on noteworthy licensees: 40 percent

The awareness of and satisfaction with ABC programs and services is rated very high according to licensees surveyed. ABC "Do Not Sell" stickers seem to be a big hit. All but a few – 100 percent after rounding—had heard of "Do Not Sell" stickers or date decals, 89 percent of licensees have used the stickers and 99

percent of licensees are satisfied with the stickers. 99 percent of the licensees surveyed had heard of ABC publications or brochures on selling and serving responsibly, just as in 2004. 63 percent said these printed materials were extremely or very important.

Additionally, mixed beverage and non-mixed beverage licensees requested training programs and ABC publications they would like to see implemented. Some of the most common requested training programs were those for recognizing fake ID's and programs closer to the smaller localities.

Overall satisfaction by licensees with the customer service provided by the agency was rated as 92 percent satisfied to extremely satisfied. These surveys are designed to inform the strategic issues and goals of the agency's strategic plan. With your help, ABC will be able to integrate results into the strategic planning process through new strategies or action plans under current strategies and objectives. We are striving to improve public safety and compliance services provided to our licensees.

A link to the entire copy of the licensee survey results is placed in the Licensee Resources section of the agency's Web site for your convenience. Please visit www.abc.virginia.gov.

Five New Licenses continued from front page

House Bill 1995 will provide localities a new tool with which to battle crime. Localities will now be able to file a petition in circuit court to stop the sale of alcohol at any establishment licensed by the ABC Board, as long as the petition demonstrates that the establishment has become a meeting place for persons committing serious criminal acts. If an injunction is issued, ABC will initiate an investigation into activities of the establishment. Only after ABC issues a final determination on the case will the court-ordered injunction be revoked.

House Bill 2491 revises the current alcoholic beverage advertising law to allow a manufacturer or its authorized vendor or a wholesale wine and beer licensee to lend, buy for, or give to a retail licensee any alcoholic beverage advertising material made of paper, cardboard, canvas, rubber, foam, or plastic, provided the advertising materials have a wholesale value of \$40 or less per item. The bill will also allow licensed retail establishments to display alcoholic beverage advertising material as permitted under Board regulations, in the interior of their establishments provided that the wholesale value of the advertisement does not exceed \$250 and it is not obtained from a manufacturer, its authorized vendor, or any wholesale wine or beer licensee.

House Bill 2638 clarifies that "outdoor dining areas" for a mixed beverage restaurant license may have more than one means of ingress and egress, provided such areas are under the control of the licensee and approved by the Board. This resolves conflicting ABC and fire safety requirements.

Additionally, the 2007 General Assembly created **five new licenses** that may be granted by the ABC Board. New licenses were created by the following proposals:

House Bill 1784 and Senate Bill 1289 creates a "Delivery Permit" which will allow an authorized brewery, winery, farm winery, or beer or wine retailer located within or outside Virginia to deliver wine and beer to their Virginia consumers for personal consumption. That privilege was removed as a result of recent federal litigation challenging the constitutionality of Virginia's ABC law.

House Bill 1815 creates a "Meal-Assembly Kitchen License" which will allow commercial establishments that offer its customers ingredients for the preparation of meals in professional kitchen facilities for off-premises consumption the ability to serve no more than two five-ounce glasses of wine or two 12-ounce glasses of beer per customer at special events or private gatherings at their establishment.

House Bill 1980 creates a "Limited Mixed Beverage Caterer's License" for a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events. This new license will cost \$500 and allows the licensee to hold up to 12 gatherings or events per year. This is a limited version of the current Mixed Beverage Caterer's License, which is unrestricted in the number of events the licensee may hold per year at a cost of \$1,860.

House Bill 2637 creates a "Limited Mixed Beverage Restaurant License" which may be issued to restaurant operators and would allow the licensee to sell and serve no more than six varieties of liqueurs to be combined with coffee or other nonalcoholic beverages for consumption in dining areas of the restaurant. The sale of such liqueur-based drinks may not exceed 10 percent of the total annual gross sales.

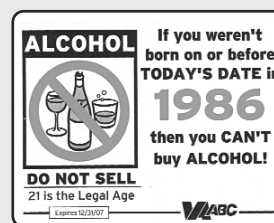
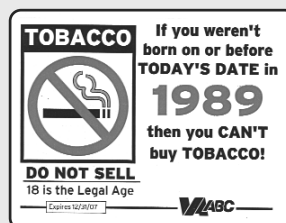
Senate Bill 984 creates an "Internet Wine Retailer License" which will allow persons who own or operate an establishment with adequate inventory, shelving, and storage facilities, where in consideration of payment, internet or telephone orders are taken and wine is shipped directly to consumers and which establishment is not a retail store open to the public.

For a more detailed explanation of 2007 Virginia General Assembly legislation, you may go to <http://leg1.state.va.us/>, click on "Bills and Resolutions", then enter the bill number (e.g. HB1815 or SB1289) in the space provided and click enter.

Is It Time to Replace Your *Do Not Sell* Stickers?

Now is a good time to check your 2007 *Do Not Sell* stickers to see if they need to be replaced. Although the stickers have been covered in a smear-resistant varnish, they may start to deteriorate and fade with use. To avoid this from happening at a fast rate, please place the stickers in a space that is not commonly used, but that is also visible by patrons.

Please remember the ABC Public Affairs office has an extra supply of stickers if you need to re-order. Additionally, the new Spanish *Do Not Sell* stickers are now available.



To order, please e-mail pubrel@abc.virginia.gov or call (804) 213-4413.

Licensee violations and penalties — November 2006 - February 2007

Compiled by Public Affairs

As a result of ABC Bureau of Law Enforcement investigations and the ABC hearings process, the following businesses received a minimum sanction of a 10 to 30-day suspension and/or at least a \$1,000 fine. These sanctions were selected

randomly from the Final Decisions and Orders issued from November 2006 through February 2007. The sanctions are reported to raise the awareness of licensees by informing them of the potential penalties for violating Virginia's ABC

Laws and Regulations. It is the hope that making licensees aware of these major violations will serve as a deterrent. Most licensed establishments operate clean and safe businesses as encouraged by the Virginia ABC Board.

Licensee	Violation	Penalty
Brewery/Williamsburg	Wholesale licensee rendered services or something of value to retail licensees; failed to keep accurate records	Accepted \$2,000 fine with Board written warning for charge #2
Convenience Grocery Store/Alexandria	Officer, director, or manager convicted of a felony; An officer, director, or manager demonstrated lack of respect for law and order	Revoked
Convenience Grocery Store/Roanoke	Sold to underage person (second offense)	30 days suspended or 10 days and \$4,000 fine
Convenience Grocery Store/Woodford	Sold to underage person (first offense)	20 days suspended and \$1,750 fine
Restaurant/Annandale	Establishment ceases to qualify as a restaurant; failed to have designated manager in charge; failed to keep complete and accurate records; establishment was so illuminated that special agents could not observe the room	30 days suspended or \$2,700 fine
Restaurant/Galax	Licensee allowed consumption of alcohol upon licensed premises by persons intoxicated; allowed intoxicated person loiter on premises; establishment does not meet requirements for health, sanitation, construction or equipment	25 days suspended or \$2,500 fine
Restaurant/Gloucester	Sold to underage person; licensee made gifts of alcohol to a person; licensee allowed consumption of alcohol to underage person; allowed consumption of alcohol by employee while on duty; kept alcohol not allowed to sell; licensee concealed the sale or consumption of alcohol; failed to obliterate the mixed beverage stamps;	30 days suspended or \$7,500 fine
Restaurant/Hollins	Sold to underage person (second offense)	25 days suspended or \$2,000 fine
Restaurant/Lynchburg	Licensee cannot demonstrate financial responsibility sufficient to meet requirements; failed to keep complete and accurate records; failed to file the annual review on a timely basis	Revoked
Restaurant/McGaheysville	Sold to underage person (first offense)	20 days suspended or \$1,750 fine

Licensee violations and penalties (continued)

Licensee	Violation	Penalty
Restaurant/Newport News	Sold to unauthorized person; failed to keep complete and accurate records	Accepted \$500 fine
Restaurant/Norfolk	Licensee not legitimate owner	30 days suspended or \$3,000 fine and all required paperwork to change ownership be filed within 14 days
Restaurant/Richmond	Sold to underage person (first offense); licensee left person in charge who could not speak, write or understand English	25 days suspended or \$2,000 fine
Restaurant/Virginia Beach	Licensee maintained a noisy or disorderly establishment; failed to keep complete and accurate records; establishment does not meet requirements of health, sanitation, construction or equipment	Revoked
Restaurant/Williamsburg	Licensee defrauded or attempted to defraud VA Dept. of Taxation & City of Williamsburg; licensee defrauded or attempted to defraud Board and Williamsburg Commissioner of Revenue	45 days suspended and placed on 3 years probation
Restaurant/Woodbridge	Licensee allowed noisy or disorderly conduct on premises; sold alcohol to persons underage	Accepted 3 days suspension and \$4,000 fine



New Spanish Tobacco Stickers now Available

The new Spanish tobacco stickers are now available. Please call 804-213-4413 or e-mail pubrel@abc.virginia.gov to receive the new Spanish tobacco and/or additional alcohol stickers.

Swecker Serving as Board Chair April 1



From left to right: Pamela O'Berry Evans, Susan R. Swecker, Esther H. Vassar.

In accordance with the Board Chair policy established under ABC's current Board administration, Commissioner Susan R. Swecker began her term as Chair on April 1, 2007. Commissioner Pamela O'Berry Evans will administer the third term role in 2008 and Commissioner Esther H. Vassar will finish the fourth term in 2009.

Chair Susan R. Swecker is an attorney and a native of Highland County and a graduate of Mary Baldwin College and Washington and Lee

University School of Law. She has been a member of the Virginia Bar Association since 1991. Chair Swecker has over 25 years of experience in government relations, public relations, grassroots consulting and issues/campaign management. She is a former senior vice president of McGuireWoods Consulting and a veteran of democratic campaigns. Chair Swecker will celebrate the beginning of her second year at ABC on April 1, 2007.

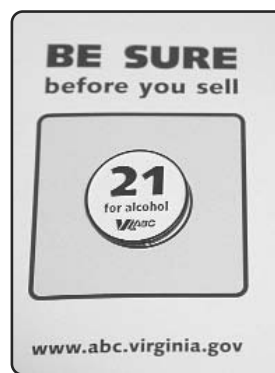
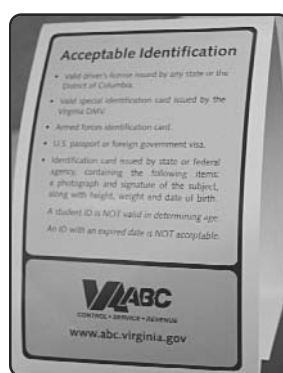
Order Table Tents or Employee Pins for your Establishment!

Show your commitment to compliance by displaying a '21 For Alcohol' table tent in your licensed establishment. These table tents were developed for sellers and servers in Virginia as an effort to prevent underage selling. Bright in color, the table tents advise customers that your establishment will check for identification before alcohol is sold. On the opposite side, there is a list of acceptable identification to aid employees when checking identification. Also still available are the compliance pins for employees to wear for prevention of underage drinking. Complimentary table tents and pins can be ordered by e-mailing pubrel@abc.virginia.gov, or by calling (804) 213-4413.

FRONT



BACK



Pictured are the front and back views of the table tents and the '21 for alcohol' pin displayed on a card.

Order table tents and pins by e-mailing pubrel@abc.virginia.gov, or by calling (804) 213-4413.

Spring Forward with MART Classes

Classes available starting May 2, 2007 in Richmond, Chesapeake, Hampton, Lynchburg, Roanoke, Augusta County and Alexandria.

Managers' Alcohol Responsibility Training (MART) spring classes are currently open for registration. Classes are held throughout the state free of charge, but managers are encouraged to register early. All classes will run six hours and will give managers an opportunity to clarify myths and receive answers directly from ABC special agents. Starting May 2, classes will run in Richmond, Chesapeake, Hampton, Lynchburg, Roanoke, Augusta County and Alexandria.



MART is designed to help on- and off-premise licensee managers gain a more thorough understanding of Virginia's alcohol-related laws and regulations. A team of special agents, licensee managers and ABC education staff has developed the training class to meet your needs. In addition to an overview of Virginia's laws, licensee managers will learn about management related issues, including checking IDs, employing minors and using proper advertising inside the establishment. Managers can register and find more information about other training programs offered on the ABC Web site at www.abc.virginia.gov, or by contacting your local ABC Regional Office.

New Direct Delivery Law Effective July 1

Governor Kaine has recently signed into law two identical bills that will allow the restoration of delivery privileges to Virginia's wine and beer retailers and farm wineries. The 2005 Brooks v. Daniels federal court decision, which ruled unconstitutional the wholesale privileges of Virginia farm wineries, also eliminated the ability for Virginia wine and beer retailers to deliver to consumers. The "delivery" privilege is distinct from the ability of retailers and wineries to "ship" alcohol to Virginia consumers via common carrier under a Virginia direct shippers license. Prior to the decree all licensees allowed to sell beer or wine at retail for off-premises consumption also had the authority to deliver the product to the purchaser. The loss of this privilege particularly impacted retailers whose business was largely delivery-oriented, such as gift-basket firms or pizza delivery concerns.

The court's ruling was based upon the Commerce Clause of the U.S. Constitution, which the court said forbids discrimination between similarly situated in-state and out-of-state merchants. Since out-of-state entities were unable to deliver wine or beer to Virginia residents, in-state licensees could not. The new law, which will be effective July 1, remedies this

problem by creating a new delivery permit available to wineries, breweries, and retailers within or outside Virginia. The annual fee for a delivery permit will be \$120, although the fee will be included in the annual fee already paid by Virginia licensees eligible for the permit.

Under the new statute, a permittee may sell and deliver any brands of wine or beer that it is permitted to sell at retail in its home state to Virginia consumers. An agent, officer, director, shareholder or employee of the permittee must make the deliveries. No more than four cases of wine or beer may be delivered at one time to any one person, unless advance notice is given to ABC. Stay tuned to the agency Web site for details on how and where to send such notice. All sales made by permittees will be deemed to be made in Virginia, and taxes will be collected and remitted by out-of-state permittees. All permittees will be required to maintain records of deliveries under this permit, and file monthly reports with ABC.

The bills also requires ABC to promulgate regulations which will require the delivery recipient to demonstrate that he is of legal age, and to sign a receipt for the delivery.

Ask ABC: Questions from the Field

"Ask ABC" is intended to provide answers to common and not-so-common questions that affect ABC retail licensees and their employees. This serves as an easy-to-use supplement to all of the education materials already offered through ABC, but is not a legal document and does not supersede the Code of Virginia, Virginia Administrative Code or any other statute.

Have a retail license question for ABC?

To submit a question to "Ask ABC," please e-mail your question to:
pubrel@abc.virginia.gov

Can a restaurant hire a convicted felon as a bartender or waiter/waitress?

No, a licensee cannot employ, other than as a busboy, cook or other kitchen help, any person who has been convicted of a felony. (4.1-225(1)(i)).

What are the rules for advertising Happy Hour on the Internet? Is it permissible?

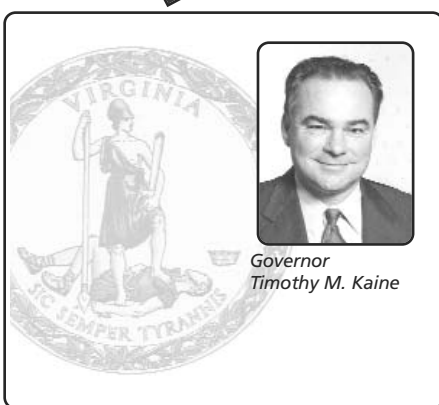
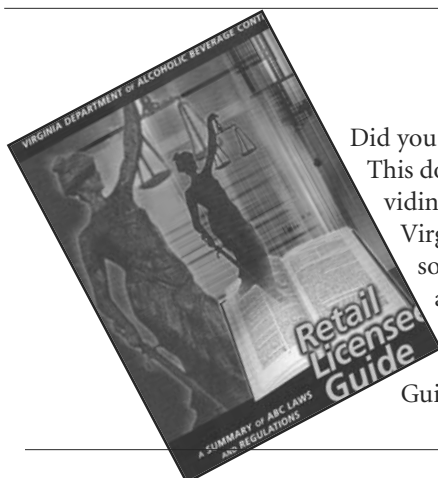
No. The Internet is considered a form of media and Happy Hour cannot be advertised in the media. Therefore, advertising on the Internet would constitute an advertising violation. (3 VAC 5-50-160).

Can patrons dance on the bar counter or on tables in ABC licensed establishments?

So long as the conduct would not constitute lewd or disorderly conduct such dancing would not be a violation. (3 VAC 5-50-140).

Did You Know?

Did you know that you could access an electronic version of the popular ABC Retail Licensee Guide? This document is a summary of ABC laws and regulations, which was created with the intent of providing all ABC retail licensees and their employees with an easy-to-use reference for understanding Virginia alcoholic beverage laws. Topics included in the guide are: avoiding sales to underage persons and intoxicated persons, prohibited conduct, restricted hours, employment practices, advertising, license issues and record keeping. Just go to www.abc.virginia.gov, click on Licensee Resources, then Licensee Laws & Regulations. In the first paragraph, click on the link titled Retail Licensee Guide. Here, you will be able to download the Retail Licensee Guide as a PDF file.



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Timothy M. Kaine

Governor: Timothy M. Kaine

Secretary of Public Safety: John W. Marshall

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